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SERVICE DATE - OCTOBER 25, 2001

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34101]

Bethlehem Steel Corporation, Keystone Railroad Inc., and Lake Michigan & Indiana Railroad Company LLC—Corporate Family Transaction Exemption

Bethlehem Steel Corporation (BSC), Keystone Railroad Inc. (Keystone), and Lake Michigan & Indiana Railroad Company LLC (LMIC) have jointly filed a verified notice of exemption. BSC is forming a new Delaware limited liability company (LLC) named LMIC.<sup>1</sup> The exempt transaction involves a proposed corporate restructuring that will result in Keystone's division, known as Lake Michigan & Indiana Railroad Company (LM&IRC), being spun off into the new LLC and becoming an independent direct subsidiary of BSC. Keystone, a Class III rail carrier formerly known as Philadelphia, Bethlehem and New England Railroad Company, is a direct subsidiary of BSC, that was

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<sup>1</sup> BSC is a noncarrier holding company that controls, directly, eight Class III subsidiary railroads, including Keystone. In support of the statement, counsel for BSC cites Bethlehem Steel Corporation—Common Control Exemption—Brandywine Valley Railroad Corporation, Upper Merion and Plymouth Railroad Company, STB Finance Docket No. 33602 (served June 16, 1998), which authorized BSC's indirect control of two Class III railroads (and noted BSC's direct control of six other Class III railroads); however, in a subsequent letter dated October 18, 2001, counsel states that "any control previously indicated to be indirect control has since been changed to direct control."

authorized to lease and operate a rail line in Burns Harbor, IN, under the name of LM&IRC.<sup>2</sup>

The transaction was scheduled to be consummated on or after October 2, 2001, the effective date of the exemption (7 days after the notice was filed).

The transaction is a part of the proposed current refinancing and restructuring by BSC. BSC and Keystone have determined that the Burns Harbor rail line should be operated by a stand alone direct subsidiary of BSC instead of a division of Keystone. After the corporate restructuring, the rail operations at Burns Harbor and at Bethlehem, PA, will be performed by separate corporate entities, each owned directly by BSC, similar to all other BSC operations. The corporate restructuring will facilitate replacement of BSC's current credit arrangements and is intended to provide increased financial liquidity and flexibility.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties stated that the transaction will not result in adverse changes in service levels, operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c) however, does not provide for labor protection for transactions under

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<sup>2</sup> See Keystone Railroad, Inc. d/b/a Lake Michigan and Indiana Railroad Company—Lease and Operation Exemption—Bethlehem Steel Corporation, STB Finance Docket No. 33797 (STB served Sept. 23, 1999 and Dec. 13, 1999, respectively).

sections 11324 and 11325 that involve only Class III railroad carriers. Because this transaction involves Class III rail carriers only, the Board, under that statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and ten copies of all pleadings, referring to STB Finance Docket No. 34101, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P. O. Box 796, West Chester, PA 19381-0796.

Board decisions and notices are available on our website at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: October 19, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary